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RESTORATION HARDWARE, INC.
RH US, LLC

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

RESTORATION HARDWARE, INC., a
Delaware corporation, and RH US, LLC,
a Delaware limited liability company,

Plaintiffs,

vs.

PHX LIGHTING, LLC, a Louisiana
limited liability company,

Defendant.

Civil Case No.: 3:15-cv-00918

COMPLAINT

Plaintiffs Restoration Hardware, Inc. and RH US, LLC (collectively, “RH”) allege the following:

NATURE OF THIS ACTION

1. This is an action for copyright infringement and patent infringement arising out of Defendant’s use of RH’s copyrighted images on Defendant’s website to sell knockoffs of RH products.

PARTIES

2. Plaintiff Restoration Hardware, Inc. is a Delaware corporation whose principal place of business is located at 15 Koch Road, Corte Madera, California, 94925.

3. Plaintiff RH US, LLC is a Delaware limited liability company whose

1 principal place of business is located at 15 Koch Road, Corte Madera,
2 California, 94925.

3 4. Defendant PHX Lighting LLC is a Louisiana limited liability company
4 whose principal place of business is located at 1900 Perdido Street, Apartment C94,
5 New Orleans, Louisiana, 70112.

6 **JURISDICTION AND VENUE**

7 5. This Court has subject matter jurisdiction over this action pursuant to
8 28 U.S.C. §§ 1331 and 1338 because this action involves claims for copyright
9 infringement arising under the Copyright Act of 1976, as amended, 17 U.S.C. § 101,
10 *et seq.*, and for patent infringement arising under the Patent Act, 35 U.S.C. § 1, *et*
11 *seq.*

12 6. This Court has personal jurisdiction over Defendant because Defendant
13 purposefully, willfully, and/or intentionally infringed upon RH's copyrights and
14 design patents by using RH's copyrighted photographs on its website to sell
15 knockoffs of RH products. Upon information and belief, Defendant used the
16 copyrighted images and patented designs with the knowledge that Plaintiffs are
17 located in California and that RH would likely suffer injury or harm resulting from
18 the infringement in California. Indeed, Defendant continued its infringing conduct
19 despite notice from RH. Upon information and belief, Defendant has purposefully
20 directed its tortious conduct and activities at California, and RH's claims arise out of
21 such conduct and activities. The exercise of personal jurisdiction is thus reasonable.

22 7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2)
23 because jurisdiction is not founded solely on diversity of citizenship and a
24 substantial part of the property that is the subject of this action—namely, RH's
25 copyrighted photographs and patented designs—is situated in this judicial district.
26 Venue is proper in the Northern district of this court, San Francisco division.

27 **INTRADISTRICT ASSIGNMENT**

28 8. Pursuant to Civil Rule 3-2(c), this is an Intellectual Property Action

assignable on a district-wide basis.

GENERAL ALLEGATIONS

9. RH is an innovative and popular luxury brand in the home furnishings marketplace. RH designs, manufactures, and sells a wide variety of home furnishings, including furniture, lighting, bed, bath, hardware, and other products.

10. RH spends a substantial amount of time, money, and effort staging and photographing its products for RH's renowned product catalogs known as "source books," and its website at <rh.com>. RH's source books and website feature thousands of beautiful photographs showing RH products in upscale and refined settings.

11. RH routinely obtains copyright registrations for its source books. Prior to January 2015, Restoration Hardware, Inc. owned all right, title, and interest in the copyrights of the photographs in RH's source books. In January 2015, Restoration Hardware, Inc. assigned its rights in the photographs to RH US, LLC, and RH US, LLC subsequently granted Restoration Hardware, Inc. a license to use the photographs.

12. RH also possesses substantial patent rights, including the following two design patents, each registered with the United States Patent and Trademark Office:

- **US D687,589 S (the "D589 Patent")**

Claim: The ornamental design for **a chandelier**, as shown and described.

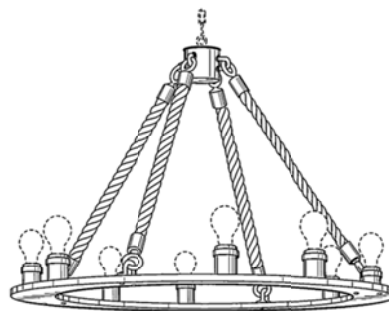


FIG. 1

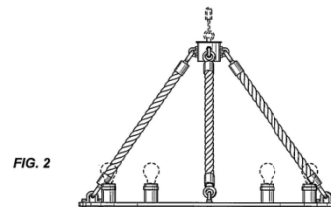


FIG. 2

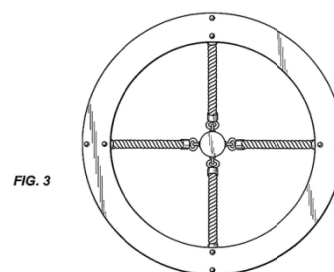


FIG. 3

Relevant Description: FIG. 1 is a perspective view of the [sic] an embodiment of a chandelier showing my new design; FIG. 2 is a front view thereof (rear, right and left views being a mirror image); and, FIG. 3 is a bottom plan view thereof.

• **US D659,278 S (the “D278 Patent”)**

Claim: The ornamental design for a chandelier, as shown and described.

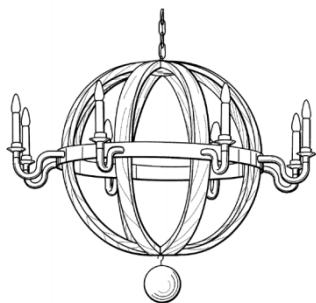


FIG. 1

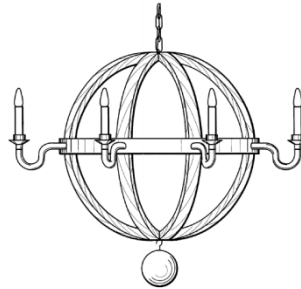


FIG. 2

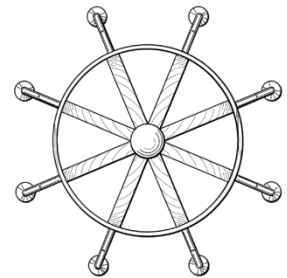


FIG. 3









Description: FIG. 1 is a perspective view of a chandelier showing our new design; FIG. 2 is a front elevational view (rear, right side and left side elevational view being the same thereof); and, FIG. 3 is a bottom view thereof. True and accurate copies of the foregoing patents are attached hereto as Exhibit A.

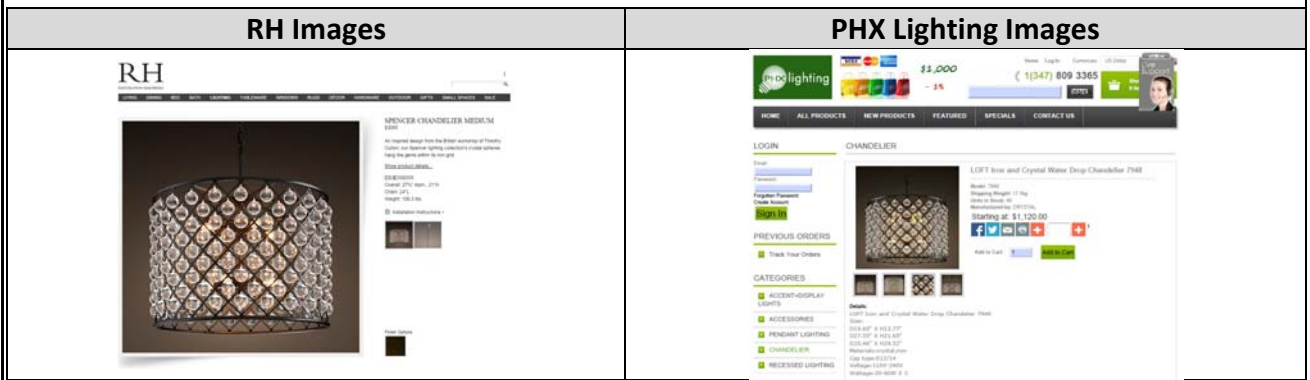
13. Unscrupulous third parties frequently use RH's photographs from its source books and website to sell knockoffs of RH's products, including products that use or embody RH's patented designs.

14. Upon information and belief, Defendant owns and operates a web-based lighting business based in New Orleans, Louisiana that sells goods to customers across the United States, including those within this judicial district.

15. In or about October 2014, RH learned that Defendant was using unauthorized copies of RH's copyrighted photographs (the "Infringing Photographs") to sell knockoffs of RH products, including products using or embodying RH's patented designs (the "Infringing Products").

16. A sample of RH's photographs and the corresponding Infringing Photographs as shown from Defendant's website are set forth in the table below:

RH Images	PHX Lighting Images
 <p>ROPE FILAMENT ROUND CHANDELIER 47 Item: 104-1000</p> <p>Transport the warmth of Edison-style filament bulbs with our dramatic, filament-inspired chandelier. Built of solid steel by hand for rugged beauty and timeless appeal. From \$1,000</p> <p>Specifications: Overall: 47" diam., 20 1/2" Chain: 60" Weight: 35 lbs. Box Dimensions: 47" x 20" Box Weight: 35 lbs.</p>	 <p>Antique Country 8 Edison Pendant Lighting in Painted Finish 793 Model: 793 Shipping Weight: 25kg Units in Stock: 20 Manufacturer: PHX Lighting \$1,712.00</p> <p>Details: Antique Country 8 Edison Pendant Lighting in Painted Finish: 793 Size: 30" x 20" x 20" Material: Steel Color: Black Weight: 25kg Manufacturer: PHX Lighting</p>
 <p>WINE BARREL & ARM ROUND CHANDELIER - WAXED RUST Item: 104-1012</p> <p>Our unique wine barrel chandeliers are built using real wine barrels and arms. From \$1,000</p> <p>Specifications: Overall: 47" diam., 20 1/2" Chain: 60" Weight: 35 lbs.</p>	 <p>Antique Wood and Rustic Iron Chandelier 1012 Model: 1012 Shipping Weight: 25kg Units in Stock: 20 Manufacturer: PHX Lighting Starting at \$945.00</p> <p>Details: Antique Wood and Rustic Iron Chandelier: 1012 Size: 47" x 20" x 20" Material: Wood, Iron Color: Rustic Weight: 25kg Manufacturer: PHX Lighting</p>
 <p>WELLES CLEAR CRYSTAL ROUND CHANDELIER 47 - GREY IRON Item: 104-9272</p> <p>The generous design of this lighting fixture is what sets it apart. It's a perfect blend of modern and traditional. From \$1,000</p> <p>Specifications: Overall: 47" diam., 20 1/2" Chain: 60" Weight: 35 lbs.</p>	 <p>Country Crystal and Iron Art Chandelier 9272 Model: 9272 Shipping Weight: 25kg Units in Stock: 20 Manufacturer: PHX Lighting Starting at \$1,260.00</p> <p>Details: Country Crystal and Iron Art Chandelier: 9272 Size: 47" x 20" x 20" Material: Crystal, Iron Color: Grey Weight: 25kg Manufacturer: PHX Lighting</p>
 <p>CASINO ROUND CHANDELIER 36" - FORGED IRON Item: 104-8088</p> <p>Build a table, simple in form and grand in look. Our hand-forged iron chandeliers are built to last. From \$1,000</p> <p>Specifications: Overall: 36" diam., 20 1/2" Chain: 60" Weight: 35 lbs.</p>	 <p>LOFT IRON ART CHANDELIER CHANDELIER 8088 Model: 8088 Shipping Weight: 25kg Units in Stock: 20 Manufacturer: PHX Lighting Starting at \$1,300.00</p> <p>Details: Loft Iron Art Chandelier Chandelier: 8088 Size: 36" x 20" x 20" Material: Iron Color: Black Weight: 25kg Manufacturer: PHX Lighting</p>



17. On October 15, 2014, RH sent a cease and desist letter to Defendant demanding that it, among other things, cease infringing RH's intellectual property, including RH's patents and copyrights, provide documentation of the source of the products at issue, provide an accounting of sales, and pay RH a reasonable amount for use of each of the copyrighted photographs at issue.

18. Defendant failed to respond.

19. On November 4, 2014, RH sent a second cease and desist letter to Defendant, reiterating its demands.

20. Again, Defendant failed to respond.

21. RH later discovered that Defendant had started selling additional products that infringe RH's intellectual property rights.

22. On November 17, 2014, RH sent a third cease and desist letter to Defendant, reiterating its initial demands and further demanding that Defendant cease selling the additional products.

23. Defendant responded on December 1, 2014, admitting use of RH's photographs and stating that they had been removed from Defendant's website, but ignoring RH's other allegations and demands.

24. With no other remaining options, RH now brings this action.

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COUNT I

(Copyright Infringement
under 17 U.S.C. § 501 *et seq.*)

25. RH incorporates the allegations in foregoing paragraphs as though fully set forth herein.

26. RH owns copyrights in the RH photographs identified above, including pending U.S. Copyright applications for the source books and website containing the photographs at issue, which applications were duly filed with the U.S. Copyright Office with the appropriate fees having been paid.

27. Defendant infringed RH's copyrights by copying and publicly displaying copies of RH's photographs on Defendant's website.

28. Plaintiffs did not authorize Defendant's copying or public display of the photographs.

29. Defendant's conduct was willful within the meaning of the Copyright Act.

COUNT II

(Patent Infringement
under 35 U.S.C. § 1, *et seq.*)

30. RH incorporates the allegations in foregoing paragraphs as though fully set forth herein.

31. RH owns the D589 and D278 design patents in the designs identified above (the "RH Patents").

32. Defendant infringed the RH Patents by making, using, offering to sell, selling, and/or importing into the United States products that embody or use the designs claimed in the RH Patents.

33. RH did not authorize Defendant's conduct.

34. Defendant's conduct was knowing, intentional, and willful, making this an exceptional case.

PRAYER FOR RELIEF

WHEREFORE, RH requests that the Court enter:

A. A preliminary and permanent injunction prohibiting Defendant and its officers, agents, servants, and those persons in active concert or participation with them from directly or indirectly infringing RH's rights in the copyrighted photographs and patented designs;

B. Judgment in favor of RH and against Defendant for, at RH's election, actual damages in amount to be determined at trial, together with the profits derived from Defendant's copyright infringement, or statutory damages for each violation under 17 U.S.C. § 504;

C. Judgment in favor of RH and against Defendant for damages adequate to compensate RH for Defendant's infringement of the RH Patents, which shall be trebled as a result of Defendant's willful patent infringement, pursuant to 35 U.S.C. § 284, or an award of Defendant's profits from its infringements pursuant to 35 U.S.C. § 289, whichever is greater, together with prejudgment interest and costs;

D. Judgment in favor of RH and against Defendant for RH's costs and attorneys' fees incurred in this action, pursuant to 17 U.S.C. § 505 and 35 U.S.C. § 285; and

E. Judgment in favor of RH and against Defendant for such other relief as the Court deems just, equitable, and proper.

Respectfully submitted,

Dated: February 27, 2015

By: /s/ Michael J. McCue

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